

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

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WRIT PETITION No.31748 of 1997

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Dated: 06.02.2007

Between:

M/s Vijaya Traders, rep., by G.Rajeshwara Rao

..... PETITIONER

AND

A.P. Industrial Infrastructure Corporation Limited,
Rep., by its Managing Director, Fate Maidan Road,
Hyderabad and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

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WRIT PETITION No.31748 of 1997

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ORDER:

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This writ petition is filed seeking a mandamus declaring the action of the respondents in issuing the letter dated 31.10.1997 directing the petitioner to evict the leaseholders from shed bearing No.F.22/B IDA, Phase,I Jeedimetla, and to pay penalty for restoration and water charges, as arbitrary and illegal, and for a consequential direction to the respondents to execute a sale deed in favour of the petitioner in respect of Shed No.F.22/B, without insisting on payment of further amount.

It is the case of the petitioner that shed bearing No.F-22/B belonging to the first respondent was allotted to it in the year 1978 and the petitioner established a stainless steel industry in the said shed. The stainless steel industry went on well for some time and thereafter,

the petitioner suffered heavy loss in the year 1979 and therefore, it was forced to close the industry. Two of the partners of the petitioner died during the year 1991. The petitioner has been paying the instalments of the costs of the shed from time to time. One Babu Sankar was managing the affairs of the petitioner firm and after his death, G.Rajeswar Rao took over the management. He addressed a letter dated 21.05.1992 bringing the deaths of the partners to the notice of the respondents and requested the second respondent to issue no-due certificate. The second respondent addressed a letter dated 04.08.1993 stating that there are arrears to a tune of Rs.43,763-25 ps., and the same has to be paid immediately for issuing no-due certificate. The petitioner paid the amount on 05.08.1993 to the second respondent and the second respondent also acknowledged the receipt of the sale consideration in respect of the shed in question. Now the grievance of the petitioner is that though it has been requesting the second respondent to execute a sale deed, the same has not been executed, instead, the letter dated 31.10.1997 has been issued to the petitioner stating that it has to pay an amount of Rs.1,35,600/- towards penalty for restoration of allotment and certain other amounts towards water charges etc. Hence, this writ petition.

A detailed counter is filed by the respondents. According to para 6 of the counter, at the time of allotment of the shed in question, only three partners were there in the partnership firm of the petitioner and the third partner by name S.Babu Shankar used to manage the affairs of the firm from 1979 to 1991 till his death and though the partners died in the year 1991, the petitioner firm notified the same through its letter dated 23.11.1992 to the Corporation. It is further stated that the Corporation while requesting the petitioner firm to clear the dues, also requested it to furnish the permanent SSI registration certificate with endorsement of

change in constitution of the firm occurred due to death of two partners, but the petitioner has not furnished the same. It is also stated that though the petitioner firm paid the total sale consideration belatedly, it has not paid penalty for restoration of allotment maintenance charges, property tax etc. In that view of the matter, a notice has been issued to the petitioner firm with a view to regularize the allotment as it has been under cancellation and two partners out of three died during the month of June, 1991. It is further stated that the sale deed has to be executed in the name of the petitioner firm after regularizing the allotment and after approving change in constitution of partnership firm and also on payment of other dues to the Corporation. It is concluded that as the petitioner failed to fulfill the conditions stipulated in the agreement, it is not entitled to any relief, and therefore, the writ petition is liable to be dismissed.

Heard the learned counsel for both the parties.

No doubt, it is true that the entire arrears are paid as contended by the learned counsel for the petitioner, and the respondents also addressed a letter on 06.08.1993 to the effect that the sale consideration in respect of the said shop along with interest is received in full. But in the very same letter it is also stated that the said acceptance is subject to reconciliation of accounts. The said rider amply makes it clear that the said acceptance of the sale consideration is subject to the verification of the accounts. Hence, it cannot be said that the petitioner paid the entire amount. In fact, in the counter it is clearly stated that the allotment was cancelled as early as in the year 1984, but the respondents accepted the said sale consideration belatedly only with a view to regularize the said allotment, provided the petitioner pays the entire arrears due to the respondents. In pursuance thereof, the said impugned letter has been addressed, against which the petitioner filed this writ petition.

No interim orders are passed in this writ petition. But, learned counsel for the petitioner submits that the petitioner is still in possession of the said shop.

In the light of the said submission, the petitioner is hereby directed to honour the letter which is impugned in this writ petition within a period of eight weeks from today, and on such payment, the respondents are directed to consider for reallocation of the shop, sympathetically, if the rules permit.

The writ petition is accordingly disposed of. There shall be no order as to costs.

06.02.2007

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